

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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|----------------------------------|---|----------------------------------|
| ANTHONY V. CAIBY, | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | Case No. 2:22-cv-1403-JDW |
| | : | |
| C/O CYNTHIA LINK, et al., | : | |
| Defendants. | : | |

ORDER

AND NOW, this 22nd day of November, 2022, upon consideration of Plaintiff Anthony V. Caiby's *pro se* Complaint (ECF No. 1), it is **ORDERED** as follows.

1. The Complaint is **DISMISSED** as frivolous and for failure to state a claim pursuant to 28 U.S.C. § 1915A(b)(1) for the reasons stated in the Court's Memorandum, as follows:
 - a. Any claims based on Judge Beetlestone's handling of *Caiby v. Link*, Case No. 18-cv-132 are **DISMISSED WITH PREJUDICE** as frivolous;
 - b. Any claims based on fantastical allegations as set forth in greater detail in the Court's Memorandum are **DISMISSED WITH PREJUDICE** as frivolous; and
 - c. Mr. Caiby's failure to protect claims are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim.
2. On or before December 23, 2022, Mr. Caiby may file an amended complaint only as to his failure to protect claims. Any amended complaint must identify all

defendants in the caption of the amended complaint, in addition to identifying them in the body of the amended complaint, and shall state the basis for Mr. Caiby's claims against each defendant. The amended complaint must also provide as much identifying information for the defendants as possible. Mr. Caiby may refer to a defendant by last name only if that is the only identifying information he possesses. If Mr. Caiby intends to name individuals for whom he does not have any identifying information, then he may refer to those individuals as John Doe #1, John Doe #2, etc. The amended complaint shall be a complete document that does not rely on the initial Complaint or other papers filed in this case in order to state a claim, and it should not reassert any claims that the Court dismissed with prejudice. When drafting his amended complaint, Mr. Caiby should be mindful of the Court's reasons for dismissing the claims in his initial Complaint, as explained in the Court's accompanying Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until the Court orders.

3. The Clerk of Court shall send Mr. Caiby a blank copy of the Court's form complaint for a prisoner filing a civil rights action bearing the above civil action number. Mr. Caiby may use this form to file his amended complaint if he chooses to do so.

4. If Mr. Caiby does not wish to amend his Complaint and instead intends to stand on his Complaint as originally pled, then on or before December 23, 2022, he may file a notice with the Court stating that intent, at which time the Court will issue a final

order dismissing the case. Any such notice should be titled "Notice to Stand on Complaint," and shall include the civil action number for this case.

5. If Mr. Caiby fails to file any response to this Order, the Court will conclude that he intends to stand on his Complaint and will issue a final order dismissing this case.

BY THE COURT:

/s/ Joshua D. Wolson

JOSHUA D. WOLSON, J.